IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1845 OF 2007

Khwajabhai Mohammed Pathan. ..Petitioner.
Versus
The State of Maharashtra
and 2 Ors. ..Respondents.

..

Mr.Naveen Chomal, Adv. for the Petitioner.
Mrs.A.S.Pai, APP, for the State.

..

CORAM : R.M.S.KHANDEPARKAR AND SMT.V.K.TAHILRAMANI,JJ.

DATED : OCTOBER 19, 2007.

P.C.:-

1. Heard the learned Advocate for the petitioner and the learned APP for the State.

2. The Petitioner who is in Yerwada Central Prison (Open Prison) had preferred an application for furlough. The said application came to be rejected on the ground that in the year 2004 when the petitioner was released on furlough he surrendered one day late. Thereafter in the very same year the petitioner was granted parole, however, he surrendered 29

days late. Thereafter, in the year 2006 the petitioner was granted parole on the ground of his ill-health. On that occasion the petitioner surrendered 128 days late. Hence, the petitioner's application for furlough came to be rejected. As far as the first two instances of the year 2004 are concerned, it is seen that thereafter the petitioner has been released on parole in the year 2006. As far as the overstay of the petitioner in the year 2006 after being granted parole is concerned, it is seen that in the year 2006 the petitioner suffered from myocardial infarction. In support of the contention that the petitioner suffered from myocardial infarction and for which he was required to be admitted in Hospital, he has relied upon the medical certificate issued by the Bombay Hospital, Mumbai dated 15th June, 2006. It is on account of this that the petitioner could not surrender back in time. Even when the petitioner was in hospital, he had preferred applications for extension of the parole period, however, the said applications were not granted. Moreover, it is an admitted

fact that the petitioner is in open prison at Yerwada Central Prison. It is further an admitted fact that the conduct of the petitioner in jail is very good, hence he has been placed in open prison. The prosecution has not assailed the genuineness of the medical certificate dated 15.6.2006 which has been relied upon by the petitioner. It has also not disputed that the petitioner was admitted in hospital for treatment of heart problem at the relevant time. Looking to all these facts, we are inclined to allow the application for furlough leave preferred by the petitioner. The petitioner be released on furlough leave for a period of two weeks on the usual terms and conditions.

3. Writ Petition is disposed of accordingly.

[R.M.S.KHANDEPARKAR,J.]

[SMT.V.K.TAHILRAMANI,J.]